

REMARKS

Claims 2-5 have been canceled.

Claims 9-11 have been added herein.

Claim Rejections under 35 U.S.C. § 103 (a)

The Examiner has provisionally rejected claim 2 under the judicially created doctrine of obviousness-type double patenting over claim 16 of co-pending Application No. 10/403,146 which is a continuation of Application 09/818,690. The cited reference has the same inventors and is assigned to the same entity as the present application. Without prejudice, the Applicants offer that should the cited application be issued a notice of allowance, which allowance includes subject matter that is equivalent to that cited by the Examiner for claim 16 of co-pending Application No. 10/403,146, then the Applicants will at that time address a terminal disclaimer as appropriate to meet the provisional rejection.

Claim Rejections under 35 U.S.C. § 102 (e)

The Examiner has also rejected claims 2-5 and 8 under 35 U.S.C. § 102 (e) over Penhasi et al (US 6632451). The Examiner indicates that the location, thickness, and number of the coatings is not limited by the Applicant and thus reads on the Penhasi reference. The Applicants disagree with the Examiner's conclusion and respectfully request that the Examiner withdraw the rejection of claims 2-5 and 8.

The Applicant have canceled claims 2-5 and added new claims 9-11 which are drawn to novel and non-obvious aspects of the present invention. The Applicants have previously claimed in claim 8 that both component layers claimed for the invention contain the active agent and drug rivastigmine. In addition, the Applicants identify in claims 9-11 the parameters of the permeability, thickness and time release aspects of the invention as now claimed.

The Penhasi reference claims, in Claim 1, section 1.b., an inner coat for the drug delivery system which has hydrophilic and water insoluble particles embedded in a coating which coating allows channels to be formed so that there is an interconnection of the channels between the core of the drug material and the outer surface of the inner coating which surrounds the core. These channels form the basis of the Penhasi invention and allow solvent to enter the core and

dissolve the drug contained therein. The Applicants invention does not claim nor disclose channels in the coating but rather and relies on dissolution of the coating layers to allow drug release. Since the Applicants invention does not claim nor disclose the interconnecting channels of the Penhasi reference the inventions are not similar under the standards for 35 U.S.C. § 102 (e). Based on the foregoing the Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 102 (e) over Penhasi et al (US 6632451).

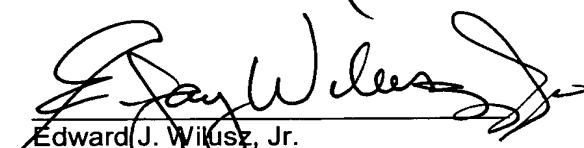
The Applicants believe that the application is now in condition for allowance and respectfully request early notice to that effect.

If the Examiner deems that additional fees are properly assessable in the case or that certain fees should be refunded, the Examiner is authorized to charge or credit such fees to Deposit Account No. 19-0134 in the name of Novartis Corporation.

If it will advance prosecution of the Application the Examiner is urged to contact the Applicants' undersigned counsel at the telephone number listed below.

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Respectfully submitted,


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